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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/606,555	06/29/2000	Peter H. Seckel	7954/1	6891

7590 11/26/2002

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Roseland, NJ 07068-1776

EXAMINER

LONEY, DONALD J

ART UNIT	PAPER NUMBER
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1772

DATE MAILED: 11/26/2002

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Please find below and/or attached an Office communication concerning this application or proceeding.

BEST AVAILABLE COPY
Office Action Summary

Application No.

09/606555

Applicant(s)

Secker

Examiner

D. Loney

Group Art Unit

1772

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Status

- ☒ Responsive to communication(s) filed on 8/26/02.
- ☐ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- ☒ Claim(s) 1-29 is/are pending in the application.
- Of the above claim(s) 7-28 is/are withdrawn from consideration.
- ☐ Claim(s) _____ is/are allowed.
- ☒ Claim(s) 1-6 and 29 is/are rejected.
- ☐ Claim(s) _____ is/are objected to.
- ☐ Claim(s) _____ are subject to restriction or election requirement.

Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
 - ☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been received.
 - ☐ received in Application No. (Series Code/Serial Number) _____.
 - ☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

Attachment(s)

- ☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____
- ☒ Notice of Reference(s) Cited, PTO-892
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Interview Summary, PTO-413
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Other _____

Office Action Summary

1. Applicant's election with traverse of Group I in Paper No. 9 is acknowledged. The traversal is on the ground(s) that the applicant argues that claims 1-6 (Group I), claims 11-16 (Group III) and claims 22, 24, 25 and 26 (Group IV) are all directed to the same invention. This is not found persuasive because the product can be made by a materially different process and could be stacked in a non-nested arrangement while Group III requires a nested packaging arrangement, the product can also be used in other environments beside packaging objects as recited in Group IV in the original restriction requirement, it can be used as a vapor barrier film. The recitation of "packaging material" in the product claim is drawn to intended use of which the product could have many (i.e. vapor barrier, spacer between layers of material) other uses besides the use of Group IV the method of use also has a separating and disorienting step which are not required by the product Group I.

The requirement is still deemed proper and is therefore made FINAL.

Newly submitted claim 28 is drawn to the same method of using as Group IV and is included within said Group for restriction purposes.

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1, 5 and 6 are rejected under 35 U.S.C. 102(b) as being anticipated by Fabre.

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Fabre discloses a material with domes that is formed of a plurality of layers of polymeric material when assembled. Refer to Fig. Nos. 5, 6, showing domes of two films (2) interlocked. Refer to column 2, lines 52-58 and column 3, lines 5-8.

4. Claims 1, 5, and 29 are rejected under 35 U.S.C. 102(b) as being anticipated by Francis.

Francis teaches a multilayer embossed film (i.e. domes) that nests upon one another. Refer to Fig. Nos. 2 and 5 along with column 4, lines 49-68 and column 5, lines 19-35. The film thickness is met by the protuberances being .5mils. to 20 mils, which is less than the thickness of the instant claim 29, and the film would have to be thinner than the height of the protuberances (refer to column 6, lines 14-16).

5. Claims 1, 5, 6 and 29 are rejected under 35 U.S.C. 102(b) as being anticipated by either Flieger or Bustin.

Both references teach embossed (i.e. domes) multiplayer plastic films. Refer to Fig. No. 3 along with column 2, lines 9-20, column 3, lines 49-55 and column 4, lines 58-68 in Bustin. Refer to Fig. Nos. 1b and 2c along with column 2, lines 6-29, column 3, lines 19-40 and column 4, lines 23-29 in Flieger.

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 2-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over anyone of Fabre, Francis, Flieger or Bustin in view of Seksaria.

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The primary references teach the invention substantially as recited (see 35 U.S.C. 102 rejections above) except for the varying size and/or shape, direction and positioning. All the primary references do disclose any desired shapes can be used. See column 3, line 55 to column 4, line 11 in Fabre, refer to column 5, line 65 to column 6, line 5 in Francis. Refer to column 2, lines 6-20 in Flieger which also discloses angles of varying direction (applicants claim 3 and 4). Refer to column 5, lines 43-45 in Bustin.

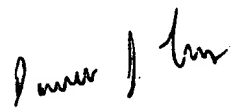
Seksaria teaches to form embossments (i.e. domes) of varying size and/or shape in order to conform to different sized articles. Refer to the Abstract, Fig. Nos. 2-4 and column 1, line 60 through column 2, line 32.

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to the primary references to vary the size, shape and/or positioning of the domes, as is taught by Seksaria and enabled to be modified to the primary references since they teach that various or other desired shape to the domes is permitted in order for the sheet to conform to various sized objects when packaged. As mentioned above, Flieger discloses angles of varying direction of the domes.

8. Applicant's arguments with respect to claims 1-6 and 29 are have been considered but are moot in view of the new ground(s) of rejection.

Any inquiry concerning this communication should be directed to Ex. D Loney at telephone number 703 308-2416.

Examiner Loney/ng
November 25, 2002


DONALD J. LONEY
PRIMARY EXAMINER